

AMENDED IN ASSEMBLY AUGUST 7, 2012

AMENDED IN ASSEMBLY JUNE 25, 2012

AMENDED IN SENATE MAY 1, 2012

AMENDED IN SENATE APRIL 10, 2012

**SENATE BILL**

**No. 1268**

---

---

**Introduced by Senator Pavley**

February 23, 2012

---

---

An act to amend Sections 25411, 25415, 25421, 25443, *and* 25449.4; ~~and 26142~~ of, and to add Sections 25412.5 and 25442.8 to, the Public Resources Code, relating to energy, ~~and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1268, as amended, Pavley. Energy: energy conservation assistance.

(1) The Energy Conservation Assistance Act of 1979 requires the State Energy Resources Conservation and Development Commission, until January 1, 2013, to administer the State Energy Conservation Assistance Account, a continuously appropriated account, to provide grants and loans to local governments and public institutions to maximize energy use savings. The act defines "energy conservation measures" to include measures primarily intended to reduce energy consumption or allow the use of a more desirable energy source. The act defines "unit of local government" to be a unit of general purpose government below the state or a special district. The act requires entities receiving a loan to repay the loan plus interest in not more than 30 equal semiannual payments with the first semiannual payment made on or before December 22 of the fiscal year following the year in which the

project is completed. The act authorizes the commission to borrow moneys from specified entities from proceeds of revenue bonds issued by those entities. The act requires unencumbered funds in the account, on January 1, 2013, to revert back to the General Fund. ~~Existing law appropriates to the account \$25,000,000 of the unencumbered balance of the \$50,000,000 from the Renewable Resource Trust Fund that was appropriated to the California Alternative Energy and Advanced Transportation Financing Authority for specified purposes. Existing law, on and after January 1, 2013, reverts the unencumbered balance of the above \$25,000,000 to the Renewable Resource Trust Fund for use by the authority.~~

This bill would extend the act to January 1, 2028. The bill would additionally include measures primarily intended to reduce peak electricity demand as “energy conservation measures” and any combination of units of local government below the state and special districts formed for the joint exercise of power as “units of local government” for the purposes of the act. The bill would provide instead that the loan repayments be made in accordance with a schedule established by the commission. The bill would require the commission to take steps to ~~perform solicit~~ *solicit loan solicitations in a manner that encourages applications to encourage* an equitable distribution of loans statewide, *to award loans in specified regions, and to place an emphasis on offering these loans in disadvantaged communities.* The bill would require any unexpended funds from the proceeds of revenue bonds sold for the purposes of the act remaining in the account on January 1, 2028, to remain in the account until all bond obligations have been satisfied and thereafter revert the remaining unexpended funds to the General Fund. The bill would require unexpended funds from the federal American Recovery and Reinvestment Act of 2009 remaining in the account on January 1, 2028, to revert to the Federal Trust Fund. ~~The bill would require, on and after January 1, 2028, the unencumbered balance of the \$25,000,000 appropriated to the account from the Renewable Resource Trust Fund to be available for appropriation by the Legislature for the benefit of ratepayers. Because this bill would extend the operation of a continuously appropriated account and would expand the purpose of, and entities qualified for, assistance from the account, this bill would make an appropriation.~~

(2) Existing law establishes, until January 1, 2016, the Local Jurisdiction Energy Assistance Account to provide funds administered by the commission for loans to local jurisdictions to reduce energy

costs. Existing law requires the commission to periodically set interest rates on the loans based on surveys of existing financial markets and at rates not less than 3% per annum. Existing law requires that unencumbered funds in the account on January 1, 2028, be deposited in the Federal Trust Fund.

This bill would extend the operation of the account to January 1, 2028. The bill would require the act to set the interest rates on the loans at not less than 1% per annum. The bill would require the commission to take steps to ~~provide loans in a manner that encourages~~ *solicit loan applications to encourage* an equitable distribution of loans ~~statewide statewide, to award loans in specified regions, and to place an emphasis on offering these loans in disadvantaged communities.~~ The bill, instead, would require unencumbered funds in the account on January 1, 2028, to be deposited in the Petroleum Violation Escrow Account.

Vote:  $\frac{2}{3}$ -majority. Appropriation: ~~yes~~-no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 25411 of the Public Resources Code is
- 2 amended to read:
- 3 25411. As used in this chapter:
- 4 (a) "Allocation" means a loan of funds by the commission
- 5 pursuant to the procedures specified in this chapter.
- 6 (b) "Building" means any existing or planned structure that
- 7 includes a heating or cooling system, or both. Additions to an
- 8 original building shall be considered part of that building rather
- 9 than a separate building.
- 10 (c) "Eligible institution" means a school, hospital, public care
- 11 institution, or a unit of local government.
- 12 (d) "Energy audit" means a determination of the energy
- 13 consumption characteristics of a building or facility that does all
- 14 of the following:
- 15 (1) Identifies the type, size, and energy use level of the building
- 16 or facility and the major energy using systems of the building or
- 17 facility.
- 18 (2) Determines appropriate energy conservation maintenance
- 19 and operating procedures.
- 20 (3) Indicates the need, if any, for the acquisition and installation
- 21 of energy conservation measures.

(e) “Energy conservation maintenance and operating procedure” means a modification or modifications in the maintenance and operations of a building or facility, and any installations therein (based on the use time schedule of the building or facility), which are designed to reduce energy consumption in the building or facility and that require no significant expenditure of funds.

(f) “Energy conservation measure” means an installation or modification of an installation in a building or facility that is primarily intended to reduce energy consumption or peak electricity demand, or allow the use of a more desirable energy source.

(g) “Energy conservation project” means an undertaking to acquire and to install one or more energy conservation measures in a building or facility, and technical assistance in connection with that undertaking.

(h) “Facility” means any major energy using system of an eligible institution whether or not housed in a building.

(i) “Hospital” means a public or nonprofit institution that is both of the following:

(1) A general hospital, tuberculosis hospital, or any other type of hospital, other than a hospital furnishing primarily domiciliary care.

(2) Duly authorized to provide hospital services under the laws of this state.

(j) “Hospital building” means a building housing a hospital and related operations, including laboratories, laundries, outpatient departments, nurses’ home and training activities, and central service operations in connection with a hospital, and also includes a building housing education or training activities for health professions personnel operated as an integral part of a hospital.

(k) “Local government building” means a building that is primarily occupied by offices or agencies of a unit of local government or by a public care institution.

(l) “Project” means a purpose for which an allocation may be requested and made under this chapter. Those purposes shall include energy audits, energy conservation and operating procedures, and energy conservation measures in existing and planned buildings and facilities, energy conservation projects, and technical assistance programs.

(m) “Public care institution” means a public or nonprofit institution that owns:

1 (1) A long-term care institution.

2 (2) A rehabilitation institution.

3 (3) An institution for the provision of public health services,  
4 including related publicly owned services such as laboratories,  
5 clinics, and administrative offices operated in connection with the  
6 institution.

7 (4) A residential child care center.

8 (n) “Public or nonprofit institution” means an institution owned  
9 and operated by:

10 (1) The state, a political subdivision of the state, or an agency  
11 or instrumentality of either.

12 (2) An organization exempt from income tax under Section  
13 501(c)(3) of the Internal Revenue Code of 1954.

14 (3) In the case of public care institutions, an organization also  
15 exempt from income tax under Section 501(c)(4) of the Internal  
16 Revenue Code of 1954.

17 (o) “School” means a public or nonprofit institution, including  
18 a local educational agency, which:

19 (1) Provides, and is legally authorized to provide, elementary  
20 education or secondary education, or both, on a day or residential  
21 basis.

22 (2) Provides, and is legally authorized to provide, a program of  
23 education beyond secondary education, on a day or residential  
24 basis and meets all of the following requirements:

25 (A) Admits as students only persons having a certificate of  
26 graduation from a school providing secondary education, or the  
27 recognized equivalent of that certificate.

28 (B) Is accredited by a nationally recognized accrediting agency  
29 or association.

30 (C) Provides an education program for which it awards a  
31 bachelor’s degree or higher degree or provides not less than a  
32 two-year program that is acceptable for full credit toward a degree  
33 at any institution that meets the requirements of subparagraphs  
34 (A) and (B) and provides that program.

35 (3) Provides not less than a one-year program of training to  
36 prepare students for gainful employment in a recognized occupation  
37 and that meets the provisions of paragraph (2).

38 (p) “School building” means a building housing classrooms,  
39 laboratories, dormitories, athletic facilities, or related facilities  
40 operated in connection with a school.

(q) “Technical assistance costs” means costs incurred for the use of existing personnel or the temporary employment of other qualified personnel, or both, necessary for providing technical assistance.

(r) “Technical assistance program” means assistance to schools, hospitals, local government, and public care institutions and includes, but is not limited to:

(1) Conducting specialized studies identifying and specifying energy savings and related cost savings that are likely to be realized as a result of:

(A) Modification of maintenance and operating procedures in a building or facility, in addition to those modifications implemented after the preliminary energy audit, or

(B) Acquisition and installation of one or more specified energy conservation measures in the building or facility, or as a result of both.

(C) New construction activities.

(2) Planning of specific remodeling, renovation, repair, replacement, or insulation projects related to the installation of energy conservation measures in the building or facility.

(3) Developing and evaluating alternative project implementation methods and proposals.

(s) “Unit of local government” means a unit of general purpose government below the state, a special district, or any combination of that unit and special district formed for the joint exercise of power.

SEC. 2. Section 25412.5 is added to the Public Resources Code, to read:

25412.5. (a) The commission shall take steps to ~~perform loan solicitations in a manner that encourages~~ *do all of the following:*

(1) *Solicit loan applications to encourage an equitable distribution of loans statewide, awards statewide.*

(2) *Award loans in regions with high summer peak loads, with high heating costs, or that have electrical or natural gas system distribution constraints, and places constraints.*

(3) *Place an emphasis on offering these loans in disadvantaged communities.*

SEC. 3. Section 25415 of the Public Resources Code is amended to read:

1     25415. (a) Each eligible institution to which an allocation has  
2     been made under this chapter shall repay the principal amount of  
3     the allocation, plus interest, in not more than 30 equal semiannual  
4     payments, as determined by the commission. Loan repayments  
5     shall be made in accordance with a schedule established by the  
6     commission. The repayment period may not exceed the life of the  
7     equipment, as determined by the commission or the lease term of  
8     the building in which the energy conservation measures will be  
9     installed.

10    (b) Notwithstanding any other provision of law, the commission  
11    shall, unless it determines that the purposes of this chapter would  
12    be better served by establishing an alternative interest rate schedule,  
13    periodically set interest rates on the loans based on surveys of  
14    existing financial markets and at rates not less than 1 percent per  
15    annum.

16    (c) The governing body of each eligible institution shall annually  
17    budget an amount at least sufficient to make the semiannual  
18    payments required in this section. The amount shall not be raised  
19    by the levy of additional taxes but shall instead be obtained by a  
20    savings in energy costs or other sources.

21    SEC. 4. Section 25421 of the Public Resources Code is  
22    amended to read:

23    25421. (a) Except as provided in subdivision (b), this chapter  
24    shall remain in effect only until January 1, 2028, and as of that  
25    date is repealed, unless a later enacted statute, which is enacted  
26    before January 1, 2028, deletes or extends that date.

27    (b) Except as specified in subdivisions (c) and (d), all loans  
28    outstanding as of January 1, 2028, shall continue to be repaid on  
29    a semiannual basis, as specified in Section 25415, until paid in  
30    full. All unexpended funds in the State Energy Conservation  
31    Assistance Account on January 1, 2028, and thereafter shall revert  
32    to the General Fund.

33    (c) To the extent required under applicable bond obligations,  
34    unexpended funds from the proceeds of bonds sold pursuant to  
35    Section 25417.5 that remain in the State Energy Conservation  
36    Assistance Account on January 1, 2028, shall remain in the  
37    account. These funds shall be expended pursuant to the applicable  
38    requirements for bond proceeds. Once all applicable bond  
39    obligations have been satisfied, unexpended funds shall revert to  
40    the General Fund.

(d) Unexpended funds from the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5) remaining in the State Energy Conservation Assistance Account on January 1, 2028, shall revert to the Federal Trust Fund.

SEC. 5. Section 25442.8 is added to the Public Resources Code, to read:

25442.8. (a) The commission shall take steps to ~~provide loans in a manner that encourages~~ *do all of the following*:

(1) *Solicit loan applications to encourage an equitable distribution of loans statewide, awards statewide.*

(2) *Award loans in regions with high summer peak loads, with high heating costs, or that have electrical or natural gas system distribution constraints, and places distribution.*

(3) *Place an emphasis on offering these loans in disadvantaged communities.*

SEC. 6. Section 25443 of the Public Resources Code is amended to read:

25443. (a) Principal and interest payments on loans under this article shall be returned to the commission and shall be used to make additional loans to local jurisdictions pursuant to Section 25442 or to provide financial assistance to local jurisdictions pursuant to Section 25441.

(b) Notwithstanding any other provision of law, the commission shall, unless it determines that the purposes of this chapter would be better served by establishing an alternative interest rate schedule, periodically set interest rates on the loans based on surveys of existing financial markets and at rates not less than 1 percent per annum.

SEC. 7. Section 25449.4 of the Public Resources Code is amended to read:

25449.4. (a) Except as provided in subdivision (b), this chapter shall remain in effect until January 1, 2028, and as of that date is repealed, unless a later enacted statute which is enacted before January 1, 2028, deletes or extends that date.

(b) All loans outstanding as of January 1, 2028, shall continue to be repaid in accordance with a schedule established by the commission pursuant to Section 25442.7, until paid in full. All unexpended funds in the Local Jurisdiction Energy Assistance Account on January 1, 2028, and thereafter, except to the extent that those funds are encumbered pursuant to Section 25443.5, shall



1 be deposited in the Petroleum Violation Escrow Account and be  
2 available for the purposes for which federal oil overcharge funds  
3 are available pursuant to court judgment or federal agency order.

4 ~~SEC. 8. Section 26142 of the Public Resources Code is~~  
5 ~~amended to read:~~

6 ~~26142. (a) Notwithstanding Section 26140, twenty-five million~~  
7 ~~dollars (\$25,000,000) of the unencumbered balance of the fifty~~  
8 ~~million dollars (\$50,000,000) that was appropriated to the authority~~  
9 ~~pursuant to Section 26140 and is in the Renewable Resource Trust~~  
10 ~~Fund is hereby appropriated to the Energy Conservation Assistance~~  
11 ~~Account established pursuant to Section 25416.~~

12 ~~(b) Notwithstanding Section 25421, any unexpended funds~~  
13 ~~appropriated pursuant to subdivision (a) remaining in the Energy~~  
14 ~~Conservation Assistance Account on and after January 1, 2028,~~  
15 ~~except to the extent those funds are encumbered pursuant to Section~~  
16 ~~25417.5, shall be available for appropriation by the Legislature~~  
17 ~~for the benefit of ratepayers from whom the moneys from the~~  
18 ~~Renewable Resource Trust Fund are collected.~~